

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**Marc Edwards,
1623 Jefferson Forest Lane
Blacksburg, VA 24060,**

Plaintiff,

v.

**Centers for Disease Control
and Prevention
1600 Clifton Rd.
Atlanta, GA 30333,**

Defendant.

Civil Action No. _____

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), as amended, to order the production of documents requested on June 13, 2009 from Defendant, the Centers for Disease Control (“the CDC”), an operating division of the United States Department of Health and Human Services (“HHS”).
2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and 5 U.S.C. § 552(a)(4)(B) because this is an action to enforce the FOIA.
3. Plaintiff Marc Edwards, the requester of the agency records that have been improperly withheld, is the Charles P. Lunsford Professor of Civil and Environmental Engineering at Virginia Tech. His main office is located at 407 Durham Hall, Blacksburg, VA 24060.
4. Defendant, the CDC, an operating division of HHS and an agency of the United States Government, has possession and control of the records requested by Plaintiff.

5. On June 13, 2009, Plaintiff sent to the CDC a request for “copies of all documents (e-mails, letters, documents, records of phone conversations) between CDC and Dr. David Jacobs and Rebecca Morley between 8-1-08 and the present.” Compl. Ex. A (FOIA Request dated June 13, 2009) (hereinafter “Ex. A”).

6. Plaintiff’s request included “all of CDC employee Mary Jean Brown’s e-mail addresses, whether at CDC or other e-mail hosts including Harvard University, and any e-mails in which either or both of [Dr. David Jacobs and Rebecca Morley] are e-mailed directly, cc’d or blind cc’d.” Ex. A.

7. Plaintiff also requested “similar communications between CDC employee Ms. Mary Jean Brown and board members of the Alliance for Healthy Homes.” Ex. A.

8. On June 23, 2009, the CDC acknowledged Plaintiff’s request and assigned it the following number: 09-00908-FOIA.

9. Ten months later, on April 27, 2010, Leigh Davidi of the CDC sent Plaintiff an invoice in the amount of \$1905.07 for reproduction, search and review, computer costs, and certification.

10. Plaintiff paid the Invoice dated April 27, 2010 on May 2, 2010, only five days after receipt of the Invoice from Ms. Davidi.

11. Although Plaintiff, through Counsel, has contacted the CDC numerous times regarding Request 09-00908-FOIA, as of the date of this Complaint, the CDC has not provided the responses to the requests that are required by statute and regulation; nor has it disclosed any of the requested records.

12. The CDC failed to respond to Plaintiff's FOIA requests within the statutorily-provided period, and has never issued a determination with regard to these requests.

13. Over 20 days (excepting Saturdays, Sundays, and legal public holidays) have passed since the CDC received Request 09-00908-FOIA, and Plaintiff has not received a written response from the CDC.

14. Plaintiff has constructively exhausted his administrative remedies with respect to this matter.

15. Plaintiff has a statutory right, pursuant to 5 U.S.C. § 552(a)(3), to the records he seeks, and there is no legal basis for the CDC's failures to respond to Plaintiff's requests and to disclose the requested documents.

WHEREFORE, Plaintiff prays that this Court:

- (1) Declare that the CDC's failure to disclose the records requested by Plaintiff is unlawful;
- (2) Order that the CDC provide the requested records to Plaintiff;
- (3) Award Plaintiff his costs and reasonable attorneys' fees in this action; and
- (4) Grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Adam C. Sloane
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September 13, 2011